

**CITY OF LOS BANOS  
PLANNING COMMISSION MEETING MINUTES  
JUNE 25, 2008**

***ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (audiotapes) kept as a permanent record.***

**CALL TO ORDER:** Chairman Hammond called the Planning Commission Meeting to order at the hour of 7:00 p.m.

**PLEDGE OF ALLEGIANCE.** Commissioner Manzo led the pledge of allegiance.

**ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT:** Donovan, Manzo, McCauley, Mello, Napolitano, Viveros, and Chairman Hammond.

**STAFF MEMBERS PRESENT:** City Attorney Vaughn, Planning Director Fitzgerald, Public Works Director/City Engineer Chisam, Assistant Planner Souza, and Planning Commission Secretary Fuentes.

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Donovan, seconded by Manzo to approve the agenda as submitted. The motion carried by the affirmative vote of all Planning Commission Members present.

**CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF JUNE 11, 2008:** Motion by McCauley, seconded by Mello to approve the minutes as submitted. The motion carried by the following vote: AYES: Donovan, Manzo, McCauley, Mello, Napolitano, Viveros, and Hammond; NOES: None; ABSTAIN: Manzo.

**PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE COMMISSION ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE PLANNING COMMISSION; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION.** No one came forward to speak, and the public forum was closed.

**PUBLIC HEARING - CONSIDERATION OF A SITE PLAN TO CONVERT AN EXISTING RESIDENTIAL HOME AND VETERINARY CLINIC INTO HIGHWAY COMMERCIAL USES. THE PROJECT IS LOCATED AT 1950 E. PACHECO BOULEVARD, MORE SPECIFICALLY DESCRIBED AS ASSESSOR'S PARCEL NUMBER: 428-160-008.** Assistant Planner Souza presented the staff report.

Commissioner Napolitano; will the commission see the landscape plan after it goes before a landscape architect; Assistant Planner Souza; what is required for the site plan is a conceptual landscape plan; very broad idea of what types of trees they will use and/or the types of planting they will be using; not specifically tying them to the irrigation system they will be using; nor the specific species; will be reviewed by a landscape architect to determine whether they are meeting the 50% shade tree ordinance as well as the irrigation system that will be used; will be reviewed in the improvement plan stage; Commissioner Napolitano; the parking lot doesn't have the 50% shade; this will be taken care of by the ordinance; Assistant Planner Souza; there is currently a condition in place that ensures the applicant meets the 50% shade.

Commissioner McCauley; stated she does like the design and the concept of the project when completed; in reference to the LEED standards, as applicant makes renovations and new additions would like to see that the applicant conforms to these standards; noticed that the applicant has planned on the tile roof as well as the landscaping that will confirm to the 50% shading; would like improvements made along the LEED standards; noted that the applicant currently has another business in KMART shopping center, this application does not reflect all other business' owned by applicant; Assistant Planner Souza; his other business is permitted in that highway commercial zoning district; will defer question to the applicant; apologized for not having photo of the existing facility as it looks today; staff is very pleased with the final improvements that

were made; brings property to a more commercial standard; staff hoped that the Planning Commission would be in favor of; Commissioner McCauley; in reference to the signage, would it ever be affected by other business'; Assistant Planner Souza; will actually be a monument sign; more of a smaller scale; will have all tenants advertisements on that monument.

Commissioner Mello; did go out to the site and noticed that the applicant had progressed rather quickly with the project; is this normal for them to start and be that far ahead in the work without approval of the Planning Commission; Assistant Planner Souza; the applicant was issued a demolition permit due to a pool that was located in the rear; however, there was work being done and City staff did stop any work being done until Planning Commission reviewed the development and improvements to the site.

Chairman Hammond opened public hearing; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; applicant did apply for a demolition permit to remove the pool in the rear; upon acquiring property, the applicant did begin working on project to complete some grading and take care of any overgrowth of landscaping that was occurring that was affecting the pipes and sewage systems throughout property; basic excavating throughout property; regarding the signage; everything is being referred to the monument sign on the property; the signage for this project will be on the main building itself; the current business owned by the applicant will not be advertised on the sign; Commissioner Viveros; will anyone be living in the home while the property is being renovated; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; the home will be vacant until it is completely renovated; Commissioner Viveros; will the fencing be changed or made to look more "pleasing;" will the bob wire be removed; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; the growth of the greenery along the chain link fence would deter graffiti tagging; reason for locking the rear of the property would be because there will be vehicles locked up in that area that will carry valuable tools; Commissioner Viveros; what will the cost be to put a stucco fence; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; will be costly; took the approach of complementing the existing property next to them, which is currently vacant; did not want to put a stucco fence because of the tagging that occurs; the current stucco fence that is up around Food 4 Less is currently covered with tagging; Assistant Planner Souza; the police chief has reviewed the plan and would prefer not to see a masonry wall for the purpose of the tagging; the police chief has reviewed the chain link fence with the slats with aesthetic landscape buffers and agrees it would help mitigate, at least on the property site, any tagging.

Commissioner Donovan; does agree that the City needs to get rid of the masonry walls, due to all of the graffiti tagging; would much rather see a fence like the one the applicant is proposing to put up with greenery; greenery would not be tagged; this would be better than a concrete wall.

Commissioner McCauley; agrees that the greenery is the way to go; feels that the applicant needs to minimize the look of the chain link fence; prefer to go with greenery that stays green all year round; it would minimize the expense of cleaning up graffiti tagging; similar to a sound wall.

Commissioner Mello; on the Westside of the business, the driveway going to the back, there are 20 or so parking lots; also shows parking on the Eastside; are they both utilized for public parking; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; will have two service vehicles; both the rear and the front parking are public parking; rear parking will be more for the residents; Commissioner Mello; if leased out, will the parking be shared; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; yes.

Commissioner Napolitano; will there be any plan on keeping up the fence; Assistant Planner Souza; staff can put in a condition; Commissioner Napolitano; would like to assure that the fence and greenery will be kept up; Assistant Planner Souza; the landscape will have to be maintained; this is a condition of approval; the condition reads that the landscape needs to be maintained in a healthy and thriving manner; it would need to be replaced with the same size and quantity being used if landscape should die; **Applicant – Roger Pires, Los Banos Business Owner, Delhi Resident**; informed

commission that the design was done by John Keesy of Keesy Designs; the applicant has not checked into putting in artificial greenery that can stay permanent; the applicant is unsure if this is an option to put along the fence; Assistant Planner Souza; from an environmental standpoint, the natural would be better.

Commissioner McCauley; would prefer that the applicant stays with the more natural look; feels that if the applicant can maintain the fencing and greenery, the applicant should stay with using the more natural look.

**Applicant - John Keesy, Keesy Designs;** in regards to the monument sign, the applicants are unaware if the City allows to add additional signage if it is conformed; Commissioner Mello; asked applicant if he is referring to subleasing the property out, would like to put that information on the signage; **Applicant - John Keesy, Keesy Designs;** (showing board) would like to do what they are allowed; would not like to be limited to what can be put up; Assistant Planner Souza; on the site plan, it is just a conceptual sign where signs will be located; not setting the applicant to what will be permitted; the applicant is not setting themselves to a specific signage; Assistant Planner Souza; informal approval will be done thru a sign review permit.

No one else came forward and public hearing was closed.

Motion by Donovan, seconded by Mello to approve Site Plan #2008-02 and adopt Planning Commission Resolution #2008-23 for the Conversion of a Residential Home and Veterinary Clinic into Commercial uses located at 1950 E. Pacheco Boulevard. To include the condition that the fence shall be maintained in a proper manner with natural vine growth on the fence. All maintenance shall be done within thirty (30) days. The motion carried by the affirmative vote of all Planning Commission Members present.

Public Works Director/City Engineer Chisam left meeting at 7:33 pm.

**PUBLIC HEARING - CONSIDERATION OF A USE PERMIT FOR A TYPE 20 ALCOHOL LICENSE TO PERMIT THE OFF-SALE OF BEER AND WINE. THE USE PERMIT IS FOR LA MORENITA TORTILLERIA AND CARNICERIA LOCATED AT 705 H STREET, MORE SPECIFICALLY DESCRIBED AS ASSESSOR'S PARCEL NUMBER: 027-201-036.** Assistant Planner Souza presented the staff report.

Commissioner Napolitano; in reference to the alcoholic beverage control, does the City have the ability to limit the signage advertising of the beer and liquor; Assistant Planner Souza; the City Police Chief wanted to ensure that there would be no blockage of windows; the applicants agreed to not put these signs up; there is actually a condition in place.

Commissioner McCauley; referring to exhibit c, # 15, it states no warm single beer or wine coolers; feels if someone were to buy warm beer or wine cooler they would open it upon leaving store; why is the City allowing chilled as opposed to warm; Assistant Planner Souza; this condition was put in by the City's Police Chief; this was put in to minimize the sales; the condition states that the applicant is limited to refrigerator space; they can only use three (3) middle doors; ensure that alcohol would be designated where they said it would be; Commissioner McCauley; she is confused as to why they will have warm versus chilled; Assistant Planner Souza; the Police Chief and staff took a tour of the facility and he was not so concerned with when it would be opened, but that it would limit the shoplifting issues.

Commissioner Mello; stated that someone would not be so easily able to shoplift a six-pack; is there any way in the future to limit the permit and review after one year in the event there are problems; can a permit be revoked; Assistant Planner Souza; it is a condition of approval; if a citizen complains or the Planning Commission hears of any issues and this is due to the alcohol a condition of approval is set that it would be reviewed by the Planning Commission and they would also be able to revoke the license; the Police Chief has also set a condition of approval that states he may also revoke the license in the event of crime issues; Commissioner Mello; asked staff if Valley Community High School is a closed campus; Assistant Planner Souza; yes, it is a closed campus.

Commissioner Manzo; read a portion of the letter from the Police Chief, reading, "Alcohol sales may only account for 1% of the alcohol business sales;" does this mean that if someone buys \$100.00 they can only sell \$1.00; feels this does not make sense; Assistant Planner Souza; this is accumulative sales; within the whole entire year; reason for this would be to ensure that their primary use would not be just for alcohol use; Commissioner Manzo; still not clear on statement; Assistant Planner Souza; includes all sales throughout the entire year; alcohol sales should be less than 1% for a whole year; Commissioner Manzo; does not make sense to hold applicant to this percentage; feels that 9% would be more ideal; feels that holding the applicant to the 1% would set them up to fail; Assistant Planner Souza; can change the condition of approval to state that instead of 1% sales that it would be 1% of the store floor space; Commissioner Manzo; the 9% would be more ideal; average alcohol in store is 9% alcohol sales and floor space can be 1%.

City Attorney Vaughn; stated that this condition conflicts with condition of approval #14; either it will be 1% of the floor or the three middle doors of the store; not sure what the purpose of the 1% sales is for; if goal is to limit the floor space, this is done with condition #14; Assistant Planner Souza; feels that the applicant can better explain; feels that the Police Chief meant to refer to the floor space.

Commissioner Donovan; stated that if the Police Chief and the school department would have made it a point to comment that if they were against this they would have made it a point to be present; feels Police Chief meant to say that it should be 1% of total floor space; this is covered in the condition.

Chairman Hammond opened the public hearing; **Applicant – Javier Moreno and Sofia Magana**; they did speak with the Police Chief regarding his concerns; the applicants are concerned with three of the conditions; for clarification, feels that there may have been some confusion with the 1%; the 1% comes from the current business they have in Seaside, CA and the primary product that is being sold there is meat; felt that condition #12 limits them to the amount of alcohol that would be sold; did clarify that the alcohol, primarily beer, would be sold to provide for the one stop shop customers; the three shelves they have are not close to the 1% floor space; noticed that with the floor space there was confusion with condition #12 was added; regarding condition #19, reading, "an account of alcohol sales and total business sales shall be provided to the Los Banos Police Chief by June 15<sup>th</sup>;" feels this is unnecessary; the applicant has made it clear that if there is a negative impact on the community or City, they will have no problem having license revoked; regarding condition #21, reading, "additional fees may be required of this facility in the future to pay for alcohol prevention, intervention, and enforcement programs;" feels that these fees should be based on percentage of sales.

Commissioner Donovan; referred question to City Attorney Vaughn stating that he feels that condition #21 is a standard condition with regards to alcoholic sales; City Attorney Vaughn; stated that this is the first time he has seen this type of condition and questioned it as well; Commissioner Donovan; has questions with conditions #12, #19, and #21; City Attorney Vaughn; stated he had the same concerns with conditions #12, #19, and #21; Commissioner Donovan; how can staff state that an applicant can obtain an alcohol permit and then tell them how much alcohol they can sell; City Attorney Vaughn; believes that this is the Police Chief's way of limiting the sales of the alcohol; feels the Chief wants an accounting of what is being sold; feels this creates a problem; Commissioner Donovan; do we require other stores to follow same conditions; Assistant Planner Souza; staff is recommending that condition #12 should be changed to, "alcohol sales shall only account for 1% of total floor area;" conditions #19 and #21 can also be removed; Commissioner Donovan; feels that the Commission does not have the right to tell any store how much they can sell if the Commission approves to give them an alcohol permit; if there is an issue, the Commission should not issue the permit and/or license; City Attorney Vaughn; make sure that conditions #12 and #14 are not conflicting; Commissioner Donovan; would like to see conditions #12, #19, and #21 removed; Commissioner Viveros; feels that condition #19 and the memo go hand in hand; regarding the additional fees, what is the formula used; Assistant Planner Souza; formula has not been set into place; when the fee does get adopted the applicant would be informed a head of time and they would be responsible; Commissioner Viveros; is this something that the Police Chief is implementing; Assistant Planner Souza; this was mentioned at the meeting with applicants; has not been approved yet; Commissioner

Viveros; if the policy hasn't been approved yet, then we cannot implement it; Assistant Planner Souza; in the way it is written, it may be required; just informational; City Attorney Vaughn; feels it is not an appropriate condition; this is really not a condition; this is not an appropriate way to assess fees; this could be a notice, stating you may be subject to a fee in the future; but not as a condition; **Applicant – Javier Moreno and Sofia Magana**; feels that business' who sell alcohol would be accountable in the same way; Assistant Planner Souza; at this time conditions #19, and #21 can be removed and modify condition #12.

Commissioner Mello; stated he is in agreement that conditions #19 and #21 are not appropriate; asked the applicant if they would have tables or chairs where customer may sit down and eat; **Applicant – Javier Moreno and Sofia Magana**; stated they would not have any tables or chairs.

Commissioner McCauley; agrees that conditions #19 and #21 should be removed; if there are issues with selling alcohol is a detriment to the area, then the permit should not be approved; this should take precedence over charging additional fees; as long as this is strictly a take out business, the small amount of area designated for the sale of alcohol, felt that they would not have a high percentage of sales; feels that the assessment of additional fees is not appropriate at this time.

Commissioner Napolitano; in the Police Chiefs report, he specifies the space; can we just change to "agreed space or designated space, agreed to by the applicant;" Chairman Hammond; this is specified in condition #14; basically condition #12 would be removed and keep condition #14.

No one else came forward and public hearing was closed.

Motion by Donovan, seconded by Manzo to approve Use Permit #2008-04 and adopt Planning Commission Resolution #2008-24 for the Off-Sale of Beer and Wine at 705 H Street for La Morenita Tortilleria and Meat Market. To include the removal of Conditions #12, #19, and #21. The motion carried by the affirmative vote of all Planning Commission Members present.

**PLANNING MANAGER'S REPORT:** Planning Director Fitzgerald; informed the commission that staff will be bringing two of the area plans (the Lakes & Villa Burrano projects) to the Planning Commission on July 9<sup>th</sup> meeting; will be reviewing the area plans, environmental document and annexations; will also be bringing the three Ranchwood area plans on July 23<sup>rd</sup>; bringing policies and procedures for the submittal requirements to the Commission for review on July 23<sup>rd</sup>; working on fee study and fee updates; will be coming to Commission sometime in August; completed the review of all elements of the General Plan internally; will be meeting with the Farm Bureau and will bring any changes sometime in August or September.

**COMMISSIONERS REPORTS:**

**ERASMO VIVEROS:** Nothing to report.

**JOSE MANZO:** Nothing to report.

**ANN McCAULEY:** Nothing to report.

**TOM MELLO:** Nothing to report.

**SHIRLEY NAPOLITANO:** Nothing to report.

**VICE CHAIR NORM DONOVAN:** Informed Commission that he would not be present at the next Planning Commission meeting of July 9<sup>th</sup>, 2008; will be attending a convention in Anaheim, CA.

**CHAIRMAN HAMMOND:** Thanked community for coming out to the 50<sup>th</sup> Anniversary of Bethel Church.

**ADJOURNMENT.** The meeting was adjourned at the hour of 8:07 p.m.

APPROVED:

**/s/ Stephen Hammond**  
Stephen Hammond, Chairman

ATTEST:

**/s/ Norma Fuentes**  
Norma Fuentes, Planning Commission Secretary